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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 190220138-9138-01]

RIN 0648-XG833

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment of Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Annual Catch Limits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary final rule; adjustment of annual catch limits.

SUMMARY: This action transfers unused quota of Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder from the Atlantic scallop fishery to the Northeast multispecies fishery for the remainder of the 2018 fishing year. This quota transfer is authorized when the scallop fishery is not expected to catch its entire allocations of yellowtail flounder. The quota transfer is intended to provide additional fishing opportunities for groundfish vessels to help achieve the optimum yield for these stocks while ensuring sufficient amounts of yellowtail flounder remain available for the scallop fishery.

DATES: Effective March 21, 2019, through April 30, 2019.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, (978) 281-9116.

SUPPLEMENTARY INFORMATION: NMFS is required to estimate the total amount of yellowtail flounder catch from the scallop fishery by January 15 each year. If the scallop fishery is expected to catch less than 90 percent of its Georges Bank (GB) or Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder sub-annual catch limit (ACL), the Regional Administrator (RA) has the authority to reduce the scallop fishery sub-ACL for these stocks to the amount projected to be caught, and increase the groundfish fishery sub-ACL by the same amount. This adjustment is intended to help achieve optimum yield for these stocks, while not threatening an overage of the ACLs for the stocks by the groundfish and scallop fisheries.

Based on the most current available catch data, we project that the scallop fishery will have unused quota in the 2018 fishing year. Using the highest expected catch, the scallop fishery is projected to catch approximately 14 mt of GB yellowtail flounder, or 44 percent of its 2018 fishing year sub-ACL, and approximately 3 mt of SNE/MA yellowtail flounder, or 80 percent of its 2018 fishing year sub-ACL. The analysis of the highest expected catch is based on the proportion of estimated yellowtail flounder catch occurring in February and March compared to catch in the remainder of the scallop fishing year. The highest proportion observed (in this case fishing year 2016) over the past six years is used to estimate the highest expected catch in fishing year 2018.

Because the scallop fishery is expected to catch less than 90 percent of its allocation of GB and SNE/MA yellowtail flounder, this rule reduces the scallop sub-ACL for both stocks to the upper limit projected to be caught, and increases the groundfish sub-ACLs for these stocks by the same amount, effective March 21, 2019, through April 30, 2019. Using the upper limit of expected yellowtail flounder catch by the scallop fishery is expected to minimize the risk of

constraining scallop fishing or an ACL overage by the scallop fishery while still providing additional fishing opportunities for groundfish vessels.

Table 1 summarizes the revisions to the 2018 fishing year sub-ACLs, and Table 2 shows the revised allocations for the groundfish fishery as allocated between the sectors and common pool based on final sector membership for fishing year 2018.

Table 1. Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Sub-ACLs.

Stock	Fishery	Initial sub-ACL (mt)	Change (mt)	Revised sub-ACL (mt)	Percent change
GB Yellowtail Flounder	Groundfish	169.4	+18.53	187.93	+11%
	Scallop	33.1	-18.53	14.57	-56%
SNE/MA Yellowtail Flounder	Groundfish	42.5	+0.78	43.28	+2%
	Scallop	4.0	-0.78	3.22	-19%

Table 2. Allocations for Sectors and the Common Pool (in pounds)

Sector Name	GB Yellowtail Flounder		SNE/MA Yellowtail Flounder	
	Revised	Initial	Revised	Initial
GB Cod Fixed Gear Sector	3,536	3,187	858	843
Maine Coast Community Sector	6,958	6,272	1,263	1,240
Maine Permit Bank	57	51	30	30
Northeast Coastal Communities Sector	23	21	205	201
Northeast Fishery Sector I	0	0	0	0
Northeast Fishery Sector II	7,902	7,124	1,798	1,766
Northeast Fishery Sector III	9	9	1	1
Northeast Fishery Sector IV	8,956	8,074	2,158	2,118
Northeast Fishery Sector V	5,287	4,767	20,109	19,740
Northeast Fishery Sector VI	11,197	10,095	5,118	5,024
Northeast Fishery Sector VII	105,711	95,299	8,142	7,993
Northeast Fishery Sector VIII	56,731	51,144	7,513	7,376
Northeast Fishery Sector IX	114	103	0	0
Northeast Fishery Sector X	5	4	523	513
Northeast Fishery Sector XI	6	6	19	18
Northeast Fishery Sector XII	2	2	10	10
Northeast Fishery Sector XIII	142,936	128,858	20,064	19,696
New Hampshire Permit Bank	0	0	0	0
Sustainable Harvest Sector 1	3,980	3,588	86	84
Sustainable Harvest Sector 2	9,258	8,346	2,100	2,061

Sustainable Harvest Sector 3	45,357	40,889	7,002	6,874
Common Pool	6,290	5,671	18,418	18,081
Sector Total	408,024	367,839	76,998	75,588
Groundfish Total	414,315	373,510	95,416	93,669

Classification

The NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries finds good cause pursuant to 5 U.S.C. 553(b)(B) and 553(d)(3) to waive prior notice and opportunity for public comment and the thirty day cooling off period, respectively. This rule relieves groundfish fishermen from more restrictive ACLs for yellowtail stocks and is intended to help the fishery achieve optimum yield. The earlier this rule is in place, the more time the groundfish fishermen will have to plan and fish for, and potentially catch, extra available quota. Delaying the effective date reduces the expected benefit and undermines the purpose of the rule to help the fishery achieve optimum yield.

The authority to transfer available yellowtail catch from the scallop fishery to the groundfish fishery was designed to allow timely implementation before the end of the northeast multispecies fishing year on April 30, 2019 (see 50 CFR 648.90(a)(4)(iii)(C)). NMFS is required to project GB and SNE/MA yellowtail flounder catch in the scallop fishery by January 15 of each year so that projected unused quota may be transferred to the groundfish fishery. Data available for analysis this year were delayed, and we could not make our projection until well after January 15. As a result, providing additional time for prior public notice and comment

or a 30-day cooling off period before transferring quota for these yellowtail flounder would likely prevent the rule from being in place before the end of the fishing year, or would mean that the rule would be in place too close to the end of the fishing year to be effective, and to confer a benefit to Groundfish fishermen. Such a delay would reduce or eliminate any potential benefit to the groundfish fishermen from receiving the additional allocation that is intended to offset the current negative economic effects of severe decreases in ACLs of several important groundfish stocks.

Scallop fishermen are not expected to be adversely affected by this rule. Projected scallop catch for the balance of the year is designed to avoid constraining scallop catch by using the high-end estimate of yellowtail bycatch based on previous year's catch. Further, scallop fishermen are aware of this potential transfer at the beginning of the fishing year and have sufficient time to plan accordingly. It also does not require time for adjusting to any new compliance measures or other action on the part of the scallop or groundfish fishermen.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 18, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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